

**TENNESSEE BOARD OF OPTOMETRY
MINUTES**

DATE: November 23, 2005

TIME: 9:00 A.M.

LOCATION: Tennessee Room
Ground Floor, Cordell Hull Building
Nashville, TN

BOARD MEMBERS

PRESENT: Scott Spivey, OD, Chair
Jeff Foster, OD, Vice Chair
Jerry Richt, OD, Secretary
Richard Orgain, OD
Eddie Abernathy, OD

BOARD MEMBERS

ABSENT: Pier Briley, Consumer Member

STAFF PRESENT: Sherry Owens, Board Administrator
Nicole Armstrong, Advisory Attorney
Barbara Maxwell, Administrative Director
Stacy Lannan, AARB 1
Jerry Kosten, Rules Coordinator

Dr. Foster, vice chair, called the meeting to order at 9:04 a.m. A sufficient number of board members were present to constitute a quorum.

Dr. Foster welcomed new board member Dr. Richard Orgain to the board.

Approval of Minutes

Upon review of the August 12, 2005 board meeting minutes, Dr. Abernathy made a motion, seconded by Dr. Richt, to approve the minutes as written. The motion carried.

Conflict of Interest

Ms. Armstrong reviewed the Conflict of Interest Policy with the board asking the board members to disclose any conflict of interest they may have prior to contested cases or any other legal proceedings or matters to determine if there is a conflict of interest. Ms. Armstrong stated that if a board member does have a conflict of interest they must recuse him/herself and leave the hearing room during the proceeding. Ms. Armstrong asked Dr. Richard Orgain to sign the conflict of interest statement and return it to Ms. Owens.

Office of General Counsel Report

Ms. Armstrong reviewed the Office of General Counsel Report stating Rule 1045-2-.02 regarding criminal background checks is under review by the Office of the Attorney General.

Ms. Armstrong stated the Office of General Counsel currently has two (2) open cases pertaining to the Board of Optometry.

Investigative Report

Ms. Owens reviewed the Investigative Report stating there are nine (9) complaints in the Office of Investigations pertaining to Optometrists.

Disciplinary Report

Ms. Owens reviewed the Disciplinary Report stating there is one (1) practitioner currently being monitored.

Ms. Owens stated the report following the disciplinary report is a list of all practitioners who have been disciplined by this board.

Financial Report

Ms. Owens reviewed the Financial Report stating there is a cumulative carryover from June 30, 2005 of \$73,490.53.

Administrative Report

Ms. Owens reviewed the Administrative Report stating that Optometrists have 1096 active licensees, 761 retired, 421 failed to renew and 171 deceased. Ms. Owens gave the board members a month to month total of newly licensed, retired and failed to renew Optometrists.

Ms. Owens stated between August 4, 2005 and November 15, 2005, 37 optometrists renewed online.

Ms. Owens reminded the board members to turn in all travel requests 120 days prior to the travel date for possible approval.

Contested Case Hearing against Jeffery Jessup, OD

Administrative Law Judge, Bob Felman, presided over the case hearing for Jeffery Jessup, OD. Elisha Hodge, Assistant General Counsel, represented the State of Tennessee and David Steed represented Dr. Jessup.

Dr. Foster stated he had prior knowledge of the complaint, recused himself and left the board room.

Upon review of the findings of facts, Dr. Richt made a motion, seconded by Dr. Spivey, to accept the findings of facts upon amending the fourteenth findings of fact to state “OD” instead of “Dr”. The motion carried.

Upon review of the causes of action, Dr. Abernathy made a motion, seconded by Dr. Orgain, to accept the finding of facts sixteen and nineteen as written. The motion carried.

Upon discussion of the action to take against Jeffery Jessup, OD, Dr. Orgain made a motion, seconded by Dr. Abernathy, to write a letter of warning against Dr. Jessup and suggest he take down the signs indicating Christina Barnes, who is not licensed in this State, was a licensed optometrist. The motion carried.

Agreed Order for Mark Jaynes, O.D.

Upon review of the Agreed Order for Mark Jaynes, O.D., Dr. Abernathy made a motion, seconded by Dr. Orgain, to accept the agreed order which states Dr. Jaynes will be on probation for three (3) years, enter into an out-patient drug and alcohol treatment facility, and pay one hundred (100) Type C civil penalties in the amount of twenty-five dollars (\$25) each for a total of two thousand five hundred dollars (\$2500.00). A roll call vote was conducted and all board members voted in the affirmative. The motion carried.

Jerry Kosten, Rules Coordinator

Upon discussion of the rulemaking hearing conducted on October 24, 2005 for Rule 1045-2-.09 regarding establishing a one (1) year expiration date for contact lens prescriptions, and also add rules for the use of screening panels and titles, Dr. Foster made a motion, seconded by Dr. Orgain, to adopt the rules as written. A roll call vote was conducted and all board members voted in the affirmative. The motion carried.

The board discussed a rulemaking hearing which regional or professional accreditation organizations are recognized/approved by the school or college of optometry. Mr. Kosten stated the only accredited organization he could find was ACOE (Accreditation Counsel on Optometric Education).

Upon discussion, Dr. Foster made a motion, seconded by Dr. Abernathy, to send Rule 1045-2-.02 regarding accreditation to rulemaking hearing. The motion carried.

Upon discussion of a rulemaking hearing for the board to offer a CPR class for licensees through the American Heart Association, Dr. Foster made a motion, seconded by Dr. Abernathy to send the rule to rulemaking hearing as amended. The motion carried.

Upon discussion of a rulemaking hearing to rewrite PC and LLC rules, Dr. Abernathy made a motion, seconded by Dr. Foster, to send the rule to rulemaking hearing. The motion carried.

Review Correspondence

Ms. Armstrong stated the letter from The National Board of Examiners in Optometry sponsorship letter is for informational purposes only.

Update on Lenscrafters Case

Ms. Armstrong stated the Lenscrafters case is being appealed to the U.S. Supreme Court. Ms. Armstrong stated she will e-mail the board members when they are hearing the case.

Cosmetic Contact Lenses

Ms. Armstrong stated the FDA will have greater control over cosmetic lenses. Hopefully we will have more information on the medical devices.

Ratify Newly Licensed and Reinstated Optometrists

Dr. Orgain made a motion, seconded by Dr. Foster, to ratify the following newly licensed and reinstated Optometrists:

Newly Licensed

**Karen Conway
Kevin R. Fischer
Frankie F. Goolsby
Robert L. Hohn
Teresa Hsu
Yangzi Jiang
Trisha Mai
Brandalyn Plumlee
Kevin J. Ritter
Andrew Tran
Jennifer G. Uhl**

Reinstated

**Charles L. Jones Jr.
Ronald L. Williams**

The motion carried.

Review Files

Upon review of the file for **Wayne Ridings, OD**, Dr. Foster made a motion, seconded by Dr. Spivey, to waive Part III of the PM Lexis. The motion carried.

Upon review, Dr. Spivey made a motion, seconded by Dr. Foster, to approve the office name **Payless Optical** submitted by Patrick Lane. The motion carried.

Upon review of the file for **Jeffery Jessup, OD**, Dr. Spivey made a motion, seconded by Dr. Orgain, to approve Dr. Jessup for injectable certification. The motion carried.

Upon review of the file for **Jimmy Elam, OD**, Dr. Spivey made a motion, seconded by Dr. Foster, to waive Part I of the PM Lexis. The motion carried.

Upon review of the file for **Bill Raney, OD**, Dr. Abernathy made a motion, seconded by Dr. Spivey, to waive Part III of the PM Lexis. The motion carried.

Upon review of the file for **Ronald Stello, OD**, Dr. Richt made a motion, seconded by Dr. Spivey, to waive Parts I, II and III of the PM Lexis. The motion carried.

Election of Officers

Dr. Richt made a motion, seconded by Dr. Abernathy, to re-elect Dr. Scott Spivey as chair of the board. The motion carried.

Dr. Abernathy made a motion, seconded by Dr. Richt, to re-elect Dr. Jeff Foster as vice chair of the board. The motion carried.

Dr. Abernathy made a motion, seconded by Dr. Spivey, to re-elect Dr. Jerry Richt as secretary of the board. The motion carried.

With no other business to conduct, Dr. Abernathy made a motion, seconded by Dr. Orgain, to adjourn the meeting at 1:58 p.m. The motion carried.

Ratified by the Board of Optometry on March 22, 2006

